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9 ONEWEST BANK, F.S.B.

10
11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13

14 SUMAN TOOR,

15 Plaintiff,

16 vs.

17 FARHAD KHAN, an individual;
18 VANDA KARAMEHMEDOVIC, an
19 individual; MORTGAGEIT, INC., a
20 business entity form unknown;
21 ONEWEST BANK, FSB, a business
22 entity form unknown; and all persons
23 unknown, claiming any legal or equitable
24 right, title, estate, lien or interest in the
25 property described in this complaint
26 adverse to Plaintiffs' title thereto, and
27 DOES 1 through 30, inclusive,

28 Defendants.

Case No. 09-2850 MMC

**NOTICE OF MOTION AND
MOTION BY DEFENDANT
ONEWEST BANK, FSB TO DISMISS
PLAINTIFF'S SECOND AMENDED
COMPLAINT PURSUANT TO
FEDERAL RULE OF CIVIL
PROCEDURE 12(b)(6)**

[Request for Judicial Notice and
[Proposed] Order filed concurrently
herewith]

Date: December 14, 2009

Time: 10:00 am

Ctrlm: 7

Judge: Hon. Maxine M. Chesney

29 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

30 PLEASE TAKE NOTICE THAT on December 14, 2009 at 10:00 a.m., or as
31 soon thereafter as this matter may be heard in Courtroom 7 of the above-captioned
32 Court, located at 450 Golden Gate Avenue, San Francisco, California 94102,
33 Defendant OneWest Bank, FSB ("OneWest") will and hereby does move this Court
34 for an Order dismissing the Plaintiff's Complaint, in its entirety, pursuant to Fed. R.
35 Civ. P. 12(b)(3) and 12(b)(6), as against OneWest. In the alternative, OneWest

MOTION TO DISMISS PLAINTIFF'S
SECOND AMENDED COMPLAINT
No. 09-2850 MMC

1 requests that, at a minimum, Plaintiff be required to provide a more definite
2 statement of her claims, pursuant to Fed. R. Civ. P. 12(e).

3 This Motion is made on the grounds that:

4 1. Plaintiff's claim for "Unfair Business Practices" fails to state facts
5 sufficient to constitute a claim for relief pursuant to FRCP 12(b)(6).

6 2. Plaintiff's claim for "Wrongful Foreclosure" fails to state facts
7 sufficient to constitute a claim for relief pursuant to FRCP 12(b)(6).

8 This Motion is based on this Notice of Motion and Motion, the following
9 Memorandum of Points and Authorities, and the concurrently filed Request for
10 Judicial Notice in support thereof, all pleadings and papers on file in the action, all
11 other matters of which the Court may take judicial notice, and such other and further
12 arguments and evidence as may be presented to the Court in connection with the
13 above-captioned hearing.

14
15 Dated: November 12, 2009

ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP
ROBERT J. CATHCART

16
17 By: 

18 ROBERT J. CATHCART
19 Attorneys for Defendant
20 ONEWEST BANK, F.S.B.
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